



महाराष्ट्र शासन राजपत्र

भाग एक-ल

वर्ष ५, अंक १]

गुरुवार ते बुधवार, जानेवारी १७-२३, २०१९/पौष २७-माघ ३, शके १९४०

[पृष्ठे ४, किंमत : रुपये २३.००

प्राधिकृत प्रकाशन

(केंद्रीय) औद्योगिक विवाद अधिनियम व मुंबई औद्योगिक संबंध अधिनियम यांखालील (भाग एक, चार-अ, चार-ब आणि चार-क यांमध्ये प्रसिद्ध केलेल्या अधिसूचना, आदेश व निवाडे यांव्यतिरिक्त) अधिसूचना, आदेश व निवाडे.

IN THE INDUSTRIAL COURT, MAHARASHTRA (NAGPUR BENCH), NAGPUR

EXHIBIT. O/5

Appeal (BIR) No. 02/2015 (CNR No. MHIC31 000647 2015).—Rashtriya Mill Mazdoor Sangh, Regd. No. NGP/2788. Through its General Secretary—Shri Sheshrao Gulabrao Kedar, R/o. C/o. Rashtriya Mill Mazdoor Sangh, At Post: Bramhani, Tah Kalmeshwar, Distt. Nagpur. *Appellant VERSUS* (1) Shri A. S. Dharkar, Assistant Registrar, O/o. The Additional Commissioner of Labour, Administrative No. 2, 'B' Wing, 4th Floor, Civil Lines, Nagpur, (2) Shri Bhagirath Textiles Kamgar Union, Regd. No. NGP/4865'. Through its General Secretary, Shishupal Turkar, R/o. Village-Ubagi, Post: Ghorad, Tah : Kalmeshwar, Distt: Nagpur, (3) Bhagirath Textiles Kamgar Union (C.I.T.U.). Regd. No. NGP/4865, 306, Shaniwari, Comm. A.K. Gopalan Bhawan, Nagpur-18. Through its President—Shri Amrut Meshram.....*Respondents*.

IN THE MATTER OF APPEAL UNDER SECTION 20 OF THE MAHARASHTRA INDUSTRIAL RELATIONS ACT, 1946.

Coram : ANJU S. SHENDE, APPELLATE AUTHORITY / MEMBER.

Appearances : S/Shri P. C. Marpakwar, V. P. Marpakwar and D. R. Karnik Advs. for Appellant. R. R. Mendhe Adv. for Respondent No.1.

S/Shri A. R Patil, Kaustubh A. Patil and Mayur Sukhdeve, Advs. for Respondent No.2.

Shri S. S. Mujumdar, Adv. for Respondent No.3.

Order

(Passed on 3rd December 2018)

The appellant has preferred present appeal under section 20 of the Maharashtra Industrial Relations Act, 1946 (for the sake of brevity hereinafter referred as 'M.I.R Act') on the grounds that it is a registered trade union and representative union of employees under the M.I.R Act, having 500 workers as members. Respondent No.1 is a Registrar under Chapter-III of the M.I.R Act, authorised to grant registration or recognition to the union. Respondent No.2 is the union got registered fraudulently and respondent No.3 is the union having same registration number as that of respondent No.2. The appellant was granted registration on 08th February 1985 by the respondent No.1. One union *i.e.* Kalmeshwar Girni Kamgar Sanghatana had filed Writ Petition No. 576/1985 which was dismissed on 24th July 1992 and thus, representation/ registration of appellant union stood confirmed as per section 16 of the M.I.R Act. On 8th December 2014 the respondent No.2 union had applied for grant of status of representative union under the M.I.R Act. Respondent No.1 called explanation of the appellant *vide* its communication, dated the 31st January 2015 on which the appellant raised objection informing about same registration number of the respondent No. 2 and the respondent No.3 union and that forgery and fraud has been committed by the respondent No.2 union, as well as that registration No. NGP/4865 can not be allotted to two unions and requested for investigation. Without considering the request the respondent No.1 issued communication to various Mills in Kalmeshwar area on 3rd September 2015 informing verification of memberships to be conducted on 21st September 2015, 22nd September 2015, 12th October 2015 and 13th October 2015. The appellant has demanded various documents from the respondent No. 1 which were not supplied. *Vide* order, dated the 30th November 2015 the respondent No.1 cancelled the status of representative union granted to the appellant and accorded the same to the respondent No. 2. The appeal is preferred as there is no application of Judicious mind and that application filed by the respondent No.2 is bogus. The members have been shown to have registered in 2014 for two unions, the returns showed them office-bearers since, 2010 while office-bearers said they have been working since, 2014, no enquiry was conducted as per the provisions of the M.I.R Act and prayed to set aside the order passed by the Assistant Registrar under the M.I.R Act, dated the 30th November 2015 in Case No. 01/2015 and to declare that the appellant union is only having status of representative union for Textiles Mills in Kalmeshwar area and also to issue direction to the Assistant Registrar under the M.I.R Act to take *suo moto* action to initiate the prosecution against the respondent No.2 for playing fraud.

2. The Court had issued notices to the respondents. Interim relief application was filed but later-on it was 'not pressed'. Written notes of arguments are filed by the counsel for the appellant as well as counsel for the respondent No.2 along with some documents. Record of the Assistant Registrar under the M.I.R Act pertaining to the present appeal has been called.

3. On these facts and circumstances, the following points arises for my determination and I have recorded findings thereon for the reasons stated hereinafter—

Points :**Findings :**

- 1) Whether the respondent No.2 union is entitled to register as a representative union in place of another union ? Yes.
- 2) Whether the order passed by the respondent No.1 *i.e.* Assistant Registrar under the M.I.R. Act, dated 30th November 2015 in Case No. 01/2015 needs to be interfered with ? No.
- 3) What order ?

As per final order.

REASONS

4. As to Points No. 1 & 2 . Respondent No. 2 is Shri Bhagirath Textiles Kamgar Union with registration No. NGP/4865 while respondent No.3 is Bhagirath Textiles Kamgar Union (C.I.T.U.), having registration No. NGP/4865. The application was received by the office of the Assistant Registrar under the M.I.R. Act from the respondent No.2 on 08th December 2014 under section 16 and Rule 14-A of the M.I.R. Act, which was regarding registration in place of another union, made in Form F-A, mentioning the number of members in September, 2014, October, 2014 and November, 2014 on the ground that it has larger memberships than the union already registered. It was alongwith the documents of registration *i.e.* of Shri Bhagirath Textiles Kamgar Union as well as minutes of monthly meetings dated 18th November 2014 and other relevant documents.

5. Notice was issued to the appellant on 31st January 2015 alongwith copy of application Form-A. Appellant appeared before respondent No.1 on 20th February 2015, the respondent No.3 was also informed to file record of the members for inspection. The appellant had filed reply on 20th February 2015 that it is a registered union and therefore, respondent No.2 can not be registered, section 16 of the M. i. R Act is applicable for local area therefore, it can not be granted, enquiry as per Section 23 of the M.I.R Act is essential and that unless as per Section 23-A of the M.I.R Act investigation is done and that there should be alteration in local area, application of respondent No.2 can not be allowed.

6. Information of members of the respondent No.3 and appellant union was not filed. It is also seen that *vide* communication dated 19th June 2015 the appellant's General Secretary was informed by the Assistant Registrar under the M.I.R Act that the documents which were sought by the appellant, were tried to be hand delivered but not accepted therefore, sent by post on 30th April 2015. Then explanation was sought within seven days. As no explanation was received more opportunity was given. Notices were given to the concerned mills and industries during enquiry and investigations of the memberships was carried out. The appellant had raised objection on 04th September 2015 that verification was done unilaterally. Again on 21st September 2015 same type of objection was raised. Thus, the Assistant Registrar under the M.I.R. Act sought police assistance for verification done on 20th October 2015.

7. In the investigation it has came to the notice that Bhagirath Textiles Kamgar Union (C.I.T.U.) was registered union having registration No. NGP/4865 and the name was changed by amendment on 24th February 2014 by change in the constitution. The copy of the same was submitted before the Assistant Registrar under the M.I.R. Act.

8. After the opportunity was given to produce list of members for verification it was not availed by the appellant nor by the respondent No.3 as claimed. The members were verified personally. They did not raise objection. All the required documents were filed by the respondent No.2 union and considering the statutory requirements the respondent No.2 union was granted status of representative union for representing textile industries for the local area of Kalmeshwar taluka and certificate was issued on 30th November 2015.

9. As per the requirement the appellant union failed to bring its members before the authority to show that it has a larger membership of employees. As per Section 16(3) of the M.I.R Act after complying with the conditions necessary for registration specified in section 13, upon satisfying its available membership, verification for three calendar months Immediately preceding the calendar months in which the applicant made application and finding larger membership, respondent No. 1 issued a certificate.

10. It was failure on the part of the appellant and the respondent No.3 union to participate and show larger membership. Therefore, the order passed by the Assistant Registrar under the M.I.R. Act is found in accordance with the principles laid down for registration of union in place of existing registered union and it is proper and legal. The order does not warrant any interference. Hence, point No. 1 is answered in the affirmative and point No.2 is answered in the negative.

11. Posing that the fraud was played by the respondent No.2 union is seen mis-representation on the part of the appellant and respondent No.3 without bringing anything before the Assistant Registrar under the M.I.R. Act *i.e.* Assistant Commissioner of Labour, Nagpur. Thus, no relief can be granted to the appellant. Hence, following order is passed.

Order

- (1) Appeal (BIR) No. 02/2015 stands dismissed.
- (2) No order as to costs.
- (3) Copy of order be sent to Assistant Registrar, under M.I.R. Act for publication.
- (4) R. & P. be sent back to Assistant Registrar under the Maharashtra Industrial Relations Act, 1946/ Assistant Commissioner of Labour, Nagpur.

ANJU S. SHENDE,
Member,
Industrial Court No.2,
Nagpur.

Dated 3rd December, 2018.

Assistant Registrar,
Industrial Court, Nagpur.